

AMENDED IN ASSEMBLY APRIL 16, 2013

AMENDED IN ASSEMBLY APRIL 8, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 220**

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**Introduced by Assembly Member Ting  
(Coauthor: Assembly Member Ammiano)**

February 4, 2013

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An act to add and repeal Section 6377 of the Revenue and Taxation Code, and to amend Section 5205.5 of the Vehicle Code, relating to ~~vehicles: taxation, to take effect immediately, tax levy.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 220, as amended, Ting. ~~Vehicles: low-emissions: financial incentives: Sales and use taxes: exemption: low-emission vehicles.~~

(1) Existing sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for the storage, use, or other consumption in this state, and provides various exemptions from those taxes.

The bill would, until January 1, 2018, exempt from those taxes the gross receipts from the sale of, and the storage, use, or other consumption of, specified low-emission vehicles purchased by a person.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law also authorizes districts, as specified, to impose transactions and use taxes in conformity

with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws.

This bill would, ~~until January 1, 2018,~~ specify that this exemption does not apply to local sales and use taxes.

~~(2) Existing law, whenever the Department of Transportation or a local authority authorizes or permits exclusive or preferential use of highway lanes or highway access ramps for high-occupancy vehicles as specified, requires the use of those lanes or ramps to be extended to vehicles that are issued distinctive decals, labels, or other identifiers, as specified, regardless of vehicle occupancy or ownership. Existing law, for purposes of implementing that provision, requires the Department of Motor Vehicles to make available for issuance, for a fee determined by the department to be sufficient to reimburse the department for the actual costs incurred as specified, distinctive decals, labels, and other identifiers that clearly distinguish the specified vehicles from other vehicles, including, but not limited to a hybrid vehicle or an alternative fuel vehicle that meets California's advanced technology partial zero-emission vehicle standard for criteria pollutant emissions and has a 45 miles per gallon or greater fuel economy highway rating, or a hybrid vehicle that was produced during the 2004 model year or earlier and has a 45 miles per gallon or greater fuel economy highway rating, and meets California's ULEV, SULEV, or partial zero-emission vehicle standards.~~

~~This bill would additionally require the department to make available for issuance, for a fee determined by the department as specified, distinctive decals, labels, and other identifiers that clearly distinguish the 2 types of vehicles specified in the latter provision that have been modified to become a plug-in hybrid, thus permitting these vehicles to use the highway lanes or highway access ramps otherwise reserved for high-occupancy vehicles.~~

~~(2) This bill would take effect immediately as a tax levy.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 6377 is added to the Revenue and
- 2 Taxation Code, to read:

6377. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage and use of, or other consumption in this state of, any vehicle, as specified in paragraphs (1) ~~and~~ or (5) of subdivision (a) of Section 5205.5 of the Vehicle Code, or any successor to those provisions.

(b) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

~~SEC. 2. Section 5205.5 of the Vehicle Code, as amended by Section 2 of Chapter 674 of the Statutes of 2012, is amended to read:~~

~~5205.5. (a) For purposes of implementing Section 21655.9, the department shall make available for issuance, for a fee determined by the department to be sufficient to reimburse the department for the actual costs incurred pursuant to this section, distinctive decals, labels, and other identifiers that clearly distinguish the following vehicles from other vehicles:~~

~~(1) A vehicle that meets California's super ultra-low emission vehicle (SULEV) standard for exhaust emissions and the federal inherently low-emission vehicle (ILEV) evaporative emission standard, as defined in Part 88 (commencing with Section 88.101-94) of Title 40 of the Code of Federal Regulations.~~

~~(2) A vehicle that was produced during the 2004 model-year or earlier and meets California ultra-low emission vehicle (ULEV) standard for exhaust emissions and the federal ILEV standard.~~

~~(3) A hybrid vehicle or an alternative fuel vehicle that meets California's advanced technology partial zero-emission vehicle (AT-PZEV) standard for criteria pollutant emissions and has a 45 miles per gallon or greater fuel economy highway rating.~~

~~(4) A hybrid vehicle that was produced during the 2004 model-year or earlier and has a 45 miles per gallon or greater fuel economy highway rating, and meets California's ULEV, SULEV, or partial zero-emission vehicle (PZEV) standards.~~

~~(5) A vehicle that meets California's enhanced advanced technology partial zero-emission vehicle (enhanced AT PZEV) standard.~~

~~(6) A hybrid vehicle referenced in paragraph (3) or (4) that has been modified to become a plug-in hybrid vehicle.~~

~~(b) Neither an owner of a hybrid vehicle that meets the AT PZEV standard, with the exception of a vehicle that meets the federal ILEV standard, nor an owner of a hybrid vehicle described in paragraph (4) of subdivision (a), is entitled to a decal, label, or other identifier pursuant to this section unless the federal government acts to approve the use of high-occupancy vehicle (HOV) lanes by vehicles of the types identified in paragraph (3) or (4) of subdivision (a), regardless of the number of occupants.~~

~~(c) The department shall include a summary of the provisions of this section on each motor vehicle registration renewal notice, or on a separate insert, if space is available and the summary can be included without incurring additional printing or postage costs.~~

~~(d) The Department of Transportation shall remove individual HOV lanes, or portions of those lanes, during periods of peak congestion from the access provisions provided in subdivision (a), following a finding by the Department of Transportation as follows:~~

~~(1) The lane, or portion thereof, exceeds a level of service C, as discussed in subdivision (b) of Section 65089 of the Government Code.~~

~~(2) The operation or projected operation of the vehicles described in subdivision (a) in these lanes, or portions thereof, will significantly increase congestion.~~

~~(e) The State Air Resources Board shall publish and maintain a listing of all vehicles eligible for participation in the programs described in this section. The board shall provide that listing to the department.~~

~~(f) (1) For purposes of subdivision (a), the Department of the California Highway Patrol and the department, in consultation with the Department of Transportation, shall design and specify the placement of the decal, label, or other identifier on the vehicle. Each decal, label, or other identifier issued for a vehicle shall display a unique number, which number shall be printed on, or affixed to, the vehicle registration.~~

~~(2) Decals, labels, or other identifiers designed pursuant to this subdivision for a vehicle described in paragraph (5) of subdivision~~

1 ~~(a) shall be distinguishable from the decals, labels, or other~~  
2 ~~identifiers that are designed for vehicles described in paragraphs~~  
3 ~~(1), (2), (3), and (4) of subdivision (a):~~

4 ~~(g) (1) (A) Except as provided in subparagraph (B), for~~  
5 ~~purposes of subdivision (a), the department shall issue no more~~  
6 ~~than 85,000 distinctive decals, labels, or other identifiers that~~  
7 ~~clearly distinguish the vehicles specified in paragraphs (3) and (4)~~  
8 ~~of subdivision (a):~~

9 ~~(B) The department may issue a decal, label, or other identifier~~  
10 ~~for a vehicle that satisfies all of the following conditions:~~

11 ~~(i) The vehicle is of a type identified in paragraph (3) or (4) of~~  
12 ~~subdivision (a):~~

13 ~~(ii) The owner of the vehicle is the owner of a vehicle for which~~  
14 ~~a decal, label, or identifier described in subparagraph (A) was~~  
15 ~~previously issued and that vehicle for which the decal, label, or~~  
16 ~~identifier was previously issued is determined by the department,~~  
17 ~~on the basis of satisfactory proof submitted by the owner to the~~  
18 ~~department, to be a nonrepairable vehicle or a total loss salvage~~  
19 ~~vehicle:~~

20 ~~(iii) The owner of the vehicle applied for a decal, label, or other~~  
21 ~~identifier pursuant to this subparagraph on or before March 31,~~  
22 ~~2009, or within six months of the date on which the vehicle for~~  
23 ~~which a decal, label, or identifier was previously issued is declared~~  
24 ~~to be a nonrepairable vehicle or a total loss salvage vehicle,~~  
25 ~~whichever date is later:~~

26 ~~(2) The department shall notify the Department of Transportation~~  
27 ~~immediately after the date on which the department has issued~~  
28 ~~50,000 decals, labels, and other identifiers under this section for~~  
29 ~~the vehicles described in paragraphs (3) and (4) of subdivision (a):~~

30 ~~(3) The Department of Transportation shall determine whether~~  
31 ~~significant HOV lane breakdown has occurred throughout the state,~~  
32 ~~in accordance with the following timeline:~~

33 ~~(A) For lanes that are nearing capacity, the Department of~~  
34 ~~Transportation shall make the determination not later than 90 days~~  
35 ~~after the date provided by the department under paragraph (2):~~

36 ~~(B) For lanes that are not nearing capacity, the Department of~~  
37 ~~Transportation shall make the determination not later than 180~~  
38 ~~days after the date provided by the department under paragraph~~  
39 ~~(2):~~

1     ~~(4) In making the determination that significant HOV lane~~  
2 ~~breakdown has occurred, the Department of Transportation shall~~  
3 ~~consider the following factors in the HOV lane:~~

- 4     ~~(A) Reduction in level of service.~~  
5     ~~(B) Sustained stop-and-go conditions.~~  
6     ~~(C) Slower than average speed than the adjacent mixed-flow~~  
7 ~~lanes.~~  
8     ~~(D) Consistent increase in travel time.~~

9     ~~(5) After making the determinations pursuant to subparagraphs~~  
10 ~~(A) and (B) of paragraph (3), if the Department of Transportation~~  
11 ~~determines that significant HOV lane breakdown has occurred~~  
12 ~~throughout the state, the Department of Transportation shall~~  
13 ~~immediately notify the department of that determination, and the~~  
14 ~~department, on the date of receiving that notification, shall~~  
15 ~~discontinue issuing the decals, labels, or other identifiers for the~~  
16 ~~vehicles described in paragraphs (3) and (4) of subdivision (a).~~

17     ~~(h) (1) Except as provided in paragraph (2), for purposes of~~  
18 ~~paragraph (5) of subdivision (a), the department shall issue no~~  
19 ~~more than 40,000 distinctive decals, labels, or other identifiers that~~  
20 ~~clearly distinguish a vehicle specified in paragraph (5) of~~  
21 ~~subdivision (a).~~

22     ~~(2) The department may issue a decal, label, or other identifier~~  
23 ~~for a vehicle that satisfies all of the following conditions:~~

24     ~~(A) The vehicle is of a type identified in paragraph (5) of~~  
25 ~~subdivision (a).~~

26     ~~(B) The owner of the vehicle is the owner of a vehicle for which~~  
27 ~~a decal, label, or other identifier described in paragraph (1) was~~  
28 ~~previously issued and that vehicle for which the decal, label, or~~  
29 ~~other identifier was previously issued is determined by the~~  
30 ~~department, on the basis of satisfactory proof submitted by the~~  
31 ~~owner to the department, to be a nonrepairable vehicle or a total~~  
32 ~~loss salvage vehicle.~~

33     ~~(C) The owner of the vehicle applied for a decal, label, or other~~  
34 ~~identifier pursuant to this paragraph within six months of the date~~  
35 ~~on which the vehicle for which a decal, label, or other identifier~~  
36 ~~was previously issued is declared to be a nonrepairable vehicle or~~  
37 ~~a total loss salvage vehicle.~~

38     ~~(i) If the Metropolitan Transportation Commission, serving as~~  
39 ~~the Bay Area Toll Authority, grants toll-free and reduced-rate~~  
40 ~~passage on toll bridges under its jurisdiction to a vehicle pursuant~~

1 to Section 30102.5 of the Streets and Highways Code, it shall also  
2 grant the same toll-free and reduced-rate passage to a vehicle  
3 displaying an identifier issued by the department pursuant to  
4 paragraph (1) or (2) of subdivision (a) and to a vehicle displaying  
5 a valid identifier issued by the department pursuant to paragraph  
6 (3) or (4) of subdivision (a) if the vehicle is registered to an address  
7 outside of the region identified in Section 66502 of the Government  
8 Code.

9 (j) An owner of a vehicle specified in paragraph (3) or (4) of  
10 subdivision (a) whose vehicle is registered to an address in the  
11 region identified in Section 66502 of the Government Code and  
12 who seeks a vehicle identifier under subdivision (a) in order to  
13 have access to an HOV lane within the jurisdiction of the Bay Area  
14 Toll Authority shall do both of the following:

15 (1) Obtain and maintain an active account to operate within the  
16 automatic vehicle identification system described in Section 27565  
17 of the Streets and Highways Code and shall submit to the  
18 department a form, approved by the department and issued by the  
19 Bay Area Toll Authority, that contains the vehicle owner's name,  
20 the license plate number and vehicle identification number of the  
21 vehicle, the vehicle make and year model, and the automatic  
22 vehicle identification system account number, as a condition to  
23 obtaining a vehicle identifier pursuant to subdivision (a) that allows  
24 for the use of that vehicle in HOV lanes regardless of the number  
25 of occupants.

26 (2) Be eligible for toll-free or reduced-rate passage on toll  
27 bridges within the jurisdiction of the Bay Area Toll Authority only  
28 if, at time of passage, the vehicle meets the passenger occupancy  
29 rate requirement established for that toll-free or reduced-rate  
30 passage.

31 (k) (1) Notwithstanding Section 21655.9, and except as  
32 provided in paragraph (2), a vehicle described in subdivision (a)  
33 that displays a decal, label, or identifier issued pursuant to this  
34 section shall be exempt from toll charges imposed on  
35 single-occupant vehicles in high-occupancy toll lanes as described  
36 in Section 149.7 of the Streets and Highways Code unless  
37 prohibited by federal law.

38 (2) (A) Paragraph (1) does not apply to the imposition of a toll  
39 imposed for passage on a toll road or toll highway, that is not a

1 ~~high-occupancy toll lane as described in Section 149.7 of the~~  
2 ~~Streets and Highways Code.~~

3 ~~(B) On or before March 1, 2014, paragraph (1) does not apply~~  
4 ~~to the imposition of a toll imposed for passage in lanes designated~~  
5 ~~for tolls pursuant to the federally supported value-pricing and~~  
6 ~~transit development demonstration program operated pursuant to~~  
7 ~~Section 149.9 of the Streets and Highways Code for State Highway~~  
8 ~~Route 10 or 110.~~

9 ~~(C) Paragraph (1) does not apply to the imposition of a toll~~  
10 ~~charged for crossing a state-owned bridge.~~

11 ~~(l) If the Director of Transportation determines that federal law~~  
12 ~~does not authorize the state to allow vehicles that are identified by~~  
13 ~~distinctive decals, labels, or other identifiers on vehicles described~~  
14 ~~in subdivision (a) to use highway lanes or highway access ramps~~  
15 ~~for high-occupancy vehicles regardless of vehicle occupancy, the~~  
16 ~~Director of Transportation shall submit a notice of that~~  
17 ~~determination to the Secretary of State.~~

18 ~~(m) (1) This section shall remain in effect only until January~~  
19 ~~1, 2015, or until the date the Secretary of State receives the notice~~  
20 ~~described in subdivision (l), whichever occurs first, and as of that~~  
21 ~~date is repealed.~~

22 ~~(2) However, with respect to a vehicle described in paragraph~~  
23 ~~(3) or (4) of subdivision (a), this section shall be operative only~~  
24 ~~until July 1, 2011, or only until the date the Secretary of State~~  
25 ~~receives the notice described in subdivision (l), whichever occurs~~  
26 ~~first.~~

27 ~~(3) With respect to a vehicle described in paragraph (5) of~~  
28 ~~subdivision (a), this section shall become operative on January 1,~~  
29 ~~2012, and shall be operative only until January 1, 2015, or until~~  
30 ~~the date the Secretary of State receives the notice described in~~  
31 ~~subdivision (l), whichever occurs first.~~

32 *SEC. 2. This act provides for a tax levy within the meaning of*  
33 *Article IV of the Constitution and shall go into immediate effect.*